

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK
FEB 20 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

)	2 CA-JV 2008-0118
)	DEPARTMENT A
)	
IN RE DERRICK S.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
)	Rule 28, Rules of Civil
)	Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 18350001

Honorable Jane L. Eikleberry, Judge

AFFIRMED

Robert J. Hirsh, Pima County Public Defender
By Susan C. L. Kelly

Tucson
Attorneys for Minor

E S P I N O S A, Judge.

¶1 Pursuant to a plea agreement, fifteen-year-old Derrick S. was adjudged delinquent after admitting he had committed disorderly conduct, possession of drug paraphernalia, and possession of alcohol. The juvenile court placed Derrick on six months' probation and directed that he be admitted to a secure treatment facility for ninety days of that term.

¶2 Derrick’s counsel has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967); *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999); and *In re Maricopa County Juv. Action No. JV-117258*, 163 Ariz. 484, 788 P.2d 1235 (App. 1989), avowing she has reviewed the record, transcripts, and dispositional report; has spoken at length with trial counsel; and has found no arguable issue to raise on appeal. Relying on *In re Niky R.*, 203 Ariz. 387, 55 P.3d 81 (App. 2002), counsel suggests Derrick’s ninety-day placement in a secure facility might have, in other circumstances, given rise to an arguable issue on appeal because it “does not appear to represent the least restrictive alternative” placement. She concludes, however, that the placement was of such short duration that it would have been “likely to end prior to this Court’s review” and so could not have been addressed by appeal. Based on Derrick’s anticipated commitment date of November 17, 2008, and absent any contrary notification by counsel, it appears Derrick has completed his placement in residential treatment, rendering this issue moot.

¶3 In compliance with *Clark*, counsel has provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” 196 Ariz. 530, ¶ 32, 2 P.3d at 97. We have reviewed the record in its entirety, pursuant to our obligation under *Anders*, and are satisfied it supports counsel’s recitation of the facts.

¶4 Viewing the evidence “in the light most favorable to sustaining the adjudication,” *In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001), the record established that the juvenile court informed Derrick of the consequences of his plea,

including his waiver of the constitutional rights associated with a trial and the alternative dispositions upon a finding of delinquency. Derrick's admissions were sufficient to provide a factual basis for his plea, and the court questioned Derrick sufficiently to support its finding that his admissions were knowingly, intelligently, and voluntarily made. *See* Ariz. R. P. Juv. Ct. 28(C), (D).

¶5 The court's disposition was authorized by A.R.S. § 8-341(A)(1)(b) and (d) and its express and implicit findings complied with the requirements for ordering residential treatment found in A.R.S. § 8-341.01. *See Niky R.*, 203 Ariz. 387, ¶ 21, 55 P.3d at 86 (we presume juvenile court made every finding necessary to support disposition). We find no abuse of discretion in the court's determination of an appropriate disposition for Derrick. *See id.* ¶ 10 (noting juvenile court's broad discretion at disposition).

¶6 After thorough review, we conclude Derrick's appeal lacks any basis in law or fact. *See McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 438 n.10 (1988). Accordingly, we affirm the juvenile court's adjudication of delinquency and its disposition.

PHILIP G. ESPINOSA, Judge

CONCURRING:

JOHN PELANDER, Chief Judge

JOSEPH W. HOWARD, Presiding Judge